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International Court of Justice

H1091-0002

OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

3 JULY 1946

(The Commission convened at 1000 hours.)

COMMISSIONER

Mr. George R. Taylor

O. K. W.

FIELD MARSHAL KESSELRING, a witness, took the stand and testified as follows:

MR. TAYLOR: The witness will be reminded that he is still under oath.

DIRECT EXAMINATION:

BY DR. LATERNSER:

Q Witness, I would now like to ask you some questions concerning the anti-Partisan action in Italy. How was the partisan activity dealt with at the time when special measures were carried out against the partisans?

A During the reign of Badoglio, the first indications of the forming of certain troops became evident. After the surrender of Italy, we noticed the enlargement of these groups. Some of them were very far away from Rome. This organization was especially active with agents or sabotage acts. Besides that, some larger actions by partisans were started which, however, could be overthrown by the local available forces.

At that time, the friendly relations between the Italian people and the German military forces were very evident; also between the Italian leadership and the German leadership. Our successful operations were also evident. This could be explained best if I could tell, very shortly, the story of the surrender of Italy. An entirely new attitude, new picture, was presented through the German surrender of Rome. It was probably well known that I had given the order not to fight for Rome, and to leave the Rome bridges intact. My offer to make Rome a free

city was not answered, but I still considered it important that I should not be called the destroyer of Rome in history.

Due to the mad dash of the Italian forces over the bridges of Rome, there was a certain crisis amongst the 14th German Army. This crisis was used successfully by the allied forces, and they called upon the population to fight against the Germans who were, at that time, in a very bad position. Due to the measures which were not in accordance with International Law but which were used by the partisans and the population on one hand, and the not very pleasant counter measures by the German forces on the other hand, I ordered certain anti-partisan measures. I want to say that a lot of the partisan activity was in parts of the country where the German forces could not in any way have bad relations with the Italians, and thereby brought them into this kind of actions because these areas, to a large extent, were not strongly occupied by German forces.

Q You have described to us the conditions of the partisan activity before the surrender of Italy, and also, to some extent the partisan activity after the surrender of Italy. At what time did you issue, or were any specizl orders issued concerning this anti-partisan action?

A Those measures were ordered, as I already mentioned, during the time that our forces retreated north of Rome. That is, when they retired north of the Bolzena Lake.

Q What orders were they?

A First of all, these orders which were recently presented to me before the Court, were from the end of June and the beginning of July. Before these orders were given, I had already given others which attempted to handle partisan actions with the most human measures available in order to bring the population once again into a close friendly relation with the Germans.

As I have already stated before the Court, I was like a doctor that had his hand on the pulse of the situation and therefore, I could give.....

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DR. KEMPNER: The witness himself stated that he told the story before the Court, and it is exactly the same as can be found on page 5737 of the record.

MR. TAYLOR: Could we get counsel to have this witness confine himself to new matters and not repeat any of the testimon which he has heretofore given before the Tribunal?

DR. LATERNSER: Mr. Commissioner, I have only asked questior which, up to now, have not been asked of the witness. Concerning these documents which were presented during the cross-examinatior by Sir Maxwell-Fyfe, I have to give the reaction of the witness now due to the following reasons. According to the record, as you can see yourself, the documents presented by the Prosecutior were only given to the defense after they had already been presented. Therefore, we did not have any time to give our positi on I can ask him now again whether the statement is true.

MR. TAYLOR: Proceed with your examination and try to keep the witness's testimony confined to new matters.

BY DE. LATERNSER:

Q How did you attempt to oppose the partisan activity in the beginning?

A I attempted everything to prevent this partisan activit through preventive measures. I do not think there were any measures which I would not have used during these short months in order to have reached that goal. First, I tried in a religiou and political way to end the spreading of hatred. In this case I want to thank the religious people.

I also had these partisan groups watched by agents in order that I could have arrested the leaders of these groups before an operation, in order that the whole action would break down in itself. Through this method many partisan actions were not carried out.

I also allowed the so called " Truce Arrests" during the winter of 1943 to 1944 in order to bring the population back to a normal way of life and due to the fact that I did understand the position of the population. The people convicted of partisan

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actions were put through the regular courts and many of them were pardoned by me, among them a few partisans who had participated in those partisan actions.

Q What was the condition of the leadership of these partisan groups and for what reason did you decide to fight against these partisans on a large scale?

A The characteristic of this partisan action at that time was that there was no higher or medium leadership. During our retreat a few times close formation of partisans attacked us. They were considered to be regular military units and they fought as such. Otherwise the biggest partisan action was that of treachery and trickery in the mountains, something which aided them immensely. In order not to commit suicide, we had to attempt stronger measures.

In order to prevent the spreading of more and more sabotage acts, I placed guards on objectives which were of interest to the enemy. These many groups of agents were fought against by technical means and whenever possible we attempted to circle the group and to capture them and then have them turned over to the courts for trial. During this time there were many cases of mistreatment against the civilian population, the peace loving peoples, and very often we were asked for our support against these actions and we very frequently gave our support. I want to tell you in order that you can understand the entire situati that at the time one of the main characteristics of the partisan activity was that certain parts of the country in Italy were completely free of any kind of partisans while other cities were completely filled with them.

DR. KEMPNER: I am getting the impression that the former General Fieldmarshal Kesselring is testifying for his own defense He is not a defendant here and I do not see the point of his testimony in connection with the General Staff and the position of the General Staff. He was advised yesterday that only so far as the General Staff and the OKW was concerned, his testimony

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was of any relevancy, but not so far as his own personal action is concerned in Italy and so forth.

DR. LATERNSER: Mr. Commissioner, this claim is not correct, I remember exactly that at the time these documents were presented in the cross-examination of the Tribunal by Sir Maxwell-Fyfe that it was stated that these documents were to be used in the prosecution of the General Staff and the OKW as such. I remember exactly that this attitude was taken in the afternoon session of 13 March and that through a remark by the President of the Court this attitude was approved. In other words it is not a defense of the person himself, but a defense of the accused organization.

MR. TAYLOR: I think Doctor, we can get along a lot faster, if you would ask the witness questions and not just let him ramble on freely. Why don't you put the questions to him? Go ahead we will proceed with the examination.

WITNESS: The partisans used every available means of treachery in this activity and I think that just about explains the situation. They used everything from assault to poisoning.

BY DR. LATERNSER:

Q Who, during that partisan action, issued the order of the 17th of June, and the 1st of July? These orders were presented under UK 66 by the British Prosecution. I now ask you, what were the reasons for these measures?

A Due to my visits to the front and my general indication I saw that the situation was becoming more and more prevalent. The reason for that I saw in the criminal action of the partisan and in the suddenly developed attitude of hatred and vengeance among my soldiers. This atmosphere of hate and vengeance by our soldiers which caused a large number of very unpleasant incidents, was due to the sudden attitude of the civilian population against us -- the civilian population for which our soldiers had lost a lot of blood.

First of all, I decreed that the anti-partisan action was

to be handed over to the military. I wanted to show the soldiers through this fact, that the partisans were being turned over to the military leadership, and that the partisan action could be repelled and overthrown within a very short time and with the least number of casualties.

Q You stated before that you used preventive measures and gave them a lot of importance. During that time of the anti-partisan action, did you have any preventive measures or did you carry out any preventive measures?

A I not only kept the old measures, but I also ordered new ones. First of all, I stopped the individual traffic in order to take away the tendency for this partisan activity. I also closed several strips of land, several areas which were tactically

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unimportant to military traffic in order to prevent, once again, any kind of friction. I not only turned to the Italian population, but also to the allied leadership to stop this useless combat. I ordered a security not spread out first over the main thoroughfare and roads, and later on all over Italy, so as to limit this partisan activity to such an extent that it was not very effective. The so-called "hitch-hiking" caused a lot of casualties, and therefore I ordered that no more "hitch-hikers" were to be stopped for on the road, either day or night. I also made the villages responsible for any acts of sabotage in order to take away any reason for cruelties and mistreatments. All these measures were successful.

Q Were not the troops and units told that they were supposed to prevent any extraordinary measures or any mistreatments during this anti-partisan action, in order to keep up the honor of the German Army?

A That happened several times, and also, the 10 commandments which was the sole book of every soldier. One of these commandments was that every sort of plundering was forbidden, and would be punished severely; every measure should be hard but correct. The honor of the German Army demanded that. These orders also say the following. . .

Q Very well, Marshal, I will discuss these measurements.

A From the documents which were presented to me?

Q I present these orders now.

DR. KEMPNER : I was interested in what the witness was reading because he has to refresh his memory for the most simple things here.

MR. TAYLOR : Go ahead with the examination, Dr. Laternser.

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WITNESS : I want to state, in this case, that the objection which refers to my loss of memory is not correct since I consider it important that the exact wording be used in this case.

BY DR. LATERNSER :

Q To what points to you especially want to refer in those orders which I pointed out to you?

A For instance, in this order that says all the civilian population which are arrested during the course of this anti-partisan activity and who are being taken during the reprisal measures are to be sent to the camps, concentration camps, which are being built under the command of the Commander in Chief Southwest, the Chief Quartermaster, and that these people are to be sent as workers to the Reich -- the location for these camps to be ordered later on -- I want to point out that this measure was directed with Mussolini's approval and that he did approve of the exportation ofthese people to the Reich. It also showed that all kinds of bloodshed was supposed to be prevented, and that those people that were arrested were to be turned over to a more usefull occupation.

Q Did you see any special difference in connection with these orders? Did you have these orders checked so as to their lawfulness and according to International Law?

A I wanted to state that in the 6 years of hard pressure upon myself, this fighting was the hardest upon me since herew touched bodies which were not quite clear according to International right. Even though these measures were ordered, I always did think and consider the rules and regulations of International Warfare. Should I give any specific examples?

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Q I don't think it is necessary that you give any details. I would like to ask you to explain to this group what reason there was for you to issue these orders anyhow, even though you did have some thoughts concerning their lawfulness according to International Law?

A First of all, I could order these reprisal actions as counter measures or as necessary measures for preventing these actions, and also, I could order these measures to guard these persons that were under my command and were my responsibility.

I want to state here that these partisans, in their action as well as in their organization, acted and were completely against all International Rights. Secondly, it was necessary for me, the responsible Commander in Chief, to prevent any of these chaotic situations to recur, and to bring them under the command of the military leadership. Thirdly, I was under the jurisdiction of the Duce who approved these measures, or if he did not, he changed them. In other words, in this case, they were measures which were ordered not against the foreign population, but against the Italian population by the Italian Government, and finally, they were within the scope of OKW orders.

Q You stated that you had ordered reprisals. Did you have in mind that these reprisals were carried out or were in some kind of relation to the activities carried out by the partisans?

A I had attempted to complete this. I want to state today that the question of reprisals has to be considered individually; that is, every case has to be considered as a single case, and that mainly depends upon the action and the locality.

First in any case, the following questions were thought about by me personally. First, I think, is the general partisan activity and secondly, what the partisan activity was in that

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particular case. I had to consider the psychological and physical pressure upon my troops during this retreat, and also the psycho logical view towards the population. In addition to that, the experience which we had gained through this partisan action. Lastly, I had to consider whether or not, through a civil action against these partisans, this riotin or this activity could be thrown down with the least amount of bloodshed for both sides according to the responsibility given to me as Commander through the Hague rules of land warfare.

Under my command, Armies, General Commands, and Divisions had to carry out these orders according to their own discretion. Later on, my troops had to consider the actual circumstances before any kind of a trial.

Q Did you also inform the population of the measures that they could expect?

A I found out, during my three years of combat in Italy, that the publication of such orders to the population had a preventive value, and also, a value insofar as tthey scared the population from any such action. It was the same in the military -- it was usually to warn them of the use of a new weapon. According to Article 42 of the Hague Rules of Land Warfare, I had the right, in fact, the responsibility, to act like this in areas under my command. At times there was the same kind of influence by the political administration.

Q What measures did you order in order to prevent the anti-partisan actions upon normal basis?

A From experience, I noted that in the areas in whic there were no vital points it was easier to throw this partisan action, and therefore I issued orders that in those areas which were not as vital as others, that there would be several kinds of anti-partisan actions as I considered it possible, through

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ny not of security, that any kind of raiding by the partisans could be prosecuted in short order. Even though the results were quite unfortunate, I did allow a certain kind of weapon throwing between the winter of 1944-1945. The reason for this return to normal activities was the lessening of the front action and the constrained attitude of the partisans.

Q How do you explain the measures, the overstepped measures, which the Prosecution has noted, or has presented? I want first of all to point out the case which is presented on page 1 of the British document, UK 66, the case which does not bear the signature which was supposed to have been appended to it.

A There were many reasons for these measures. Without attempting to go further into this document, I do suppose that this document gives only the one side of the story, that is, the Italian side, and that German personnel were not heard concerning this same matter. Therefore, the entire thing is rather one-sided. Secondly, I must the crisis the times during a retreat, was severe, and I personally thought that some actions which I could not check were carried out by individual units or groups. Also considered in this must be the complicated chain of command in the German Army. In addition to that was the heavy strain put on all leaders, on all officers of all ranks during this retreat. I don't know of the case of Civitella as an individual case. I do censure the shooting of women and children most severely.

Q Now, one last question concerning this partisan action. To what extent could you check the carrying out of these orders which you had given concerning the anti-partisan activity?

A I used all the measures which were available to me. First of all, I was on the road day and night. I also asked the Italian population to inform me of any measure which was carried out under my command, the German Armies, and Headquarters. Those

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groups were ordered to act against any such matters. I also ordered that several police blocks would be active within the area, and that certain patrols of officers would circle the areas in order to inform me of any kind of measure of that sort and in order to catch the criminals.

Q I have one question concerning the Commando Order of 18 October 1942. Doyou know of any case, with the exception of the case of Doretler, where the Commando order was carried out?

A No, but I do know of various cases where the Commando order was not carried out.

Q And what are the cases or the incidents known to you where the Commando order was not carried out?

A A Commando group Italian of the North Wing was captured. They were captured and sent to a prisoner-of-war camp in Naples. I know of further incidents near Ancona, near Tornoli in lake Commachio, and hnear the countries of Albonga. I want to state that the attitude was taken by the units not to report any of these actions as Commando actions.

Q The Prosecution also accuses us of the inhuman type of warfare. What incident can you give concerning the guarding of cultural treasures?

A My type of warfare was influenced at times by my wish to have these matters or these art treasures kept for later generations.

DR. KEMPNER : The last question, the one before the last, was quoted exactly on page 5741. And then, another question, "Did you, as Commander of any Army Group, try to protect any art treasures" is quoted on Page 5751. Yesterday I understood that this direct examination should last no longer than three hours.

Mr. TAYLOR : The Commission will take a 10 minute

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recess after which we will start the cross examination.

DR. LATERNSER : I will recall the last question. The objection is correct.

(a Short recess was taken.)

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DR. LATERNS R: Mr. Commissioner, I have about four or five more question: and I would like to ask your permission to ask these questions since I have not as yet used my time limit of yesterday, since yesterday I questioned the witness an hour and fifteen minutes and today an hour and twenty minutes, and the order to hold the questioning to three hours has not up until now been carried out very often by the Commission. In addition to that, no witness of the prosecution has so far been limited according to that time.

MR. TAYLOR: Will it take you very long for the five questions, how much time ?

DR. LATERNSER: I will finish in fifteen minutes.

MR. TAYLOR: Very well, proceed.

BY DR. LATERNSER:

Q. Field Marshall, what did you do with the civilian population in Italy for their protection and their fodd ?

A. In this case I want to state I did everything humanly possible. I used my technical units in order to bring about the usage and make possible the usage of water, gas and electricity. I have secured and carried out the providing of food under the heardest conditions with my own units, and have secured it without my own units. I want to give two small examples. I, for instance had seven divisions, through the area at Lettuno and in order to bring 2500 tons of food to the hundreds of thousands of refugees which had come into Rome I had to hold my troops together in the vicinity of Senio and Parma in order to assure that the civilian population in the vicinity of Spezzia would have enough food, a fact which was not thoroughly taken care of by the Italian administration, and a fact which was also not checked sufficiently by my Commander in Chief, even though I was accused by my Commander of neglecting my units, I had 800 tons of food sent daily by trains ahead of all military trains to the city of Rome for the populations. It is of course, a matter of fact that I fed the civilian population with food from the army, and that all of the food stuff which could not be transported away any more handed over to the Italian population. I attempted to safeguard

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the Italian population from the horrors of war as far as possible. I wanted to evacuate the population of Senio, in the vicinity of Senio. However, they refused to be evacuated and then I attempted to get some kind of connections through an intermediary with the Allies. However, it was only after fourteen days that I received a negative answer. I worked against the too extensive sale of Italian matters and I attempted to safeguard the population and I regulated the daily traffic and the daily travel as far as possible. I received a tremendous amount of letters of thanks.

Q. With what branch of the army-did the office of security work together with the army ?

A. With the commanding general who was under the command of the OKH, usually with the commanding general who had to discuss these purely civilian matters with the military. Many troops were, however, influenced somewhat with these matters.

Q. Was the office of the commanding general under your command ?

A. In military questions, yes and in civilian administration questions, no.

Q. It was said time and time again that the transfer of a person to the SD meant the murder or killing of that particular person ? Did you know of that fact at that time ?

A. In those years 1942, 1943 and 1944 definitely not. Around the 20th of July my boss and myself, that is General Milan discussed as to what was the actual reason for this transfer to the SD of certain prisoners and we thought that the main reason was that there was a better camp and a better means of interrogation. The question of this matter was later on again discussed, or it came to my mind again later on, when as Commander in Chief West I received an order from the OKW according to which all members and all persons arrested whose cases were questionable were to be turned over to the SD.

Q. Did you receive any personal donations ?

A. No, only during my fortieth army jubilee I received a picture in a silver frame from the Fuehrer.

DR. LATERNSER: No further questions.

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CROSS EXAMINATION

BY DR. KEMPNER:

Q. How long have you served in the German army ?

A. Since 1904 forty two years.

Q. In other words, you have had very great experience in all cases ?

A. I attempted to gain from these experiences.

Q. When did you recognize that the war was lost ?

A. Here or that I personally found out ?

Q. When did you personally ?

A. I already have stated before the Court that I considered it lost after the loss of Stalingrad, and also that I considered it possible that the war would have been different with a completely different organization and group of people.

Q. Then if I understand you correctly you knew in 1943 after Stalingrand ?

A. Yes.

Q. Why then did you take over the job of Commander in Chief West after such a time when the case was even worse ?

A. I personally did not want to take this job and it was a very unfortunate matter that I did have to because for all times my name will be connected with the complete defeat of the German army.

Q. How many more persons after you took over the job of Commander in Chief were shot because they considered the matter hopeless and because they quit ?

A. Prosecutor I cannot give you a number. I only can say the following : At that time Hitler told me when I received this position that the campaign in the East was the important campaign and that the campaign in the West was only a more or less accompanying campaign. I have already stated before the Court that I believe Hitler was a little bit too optimistic for when he described conditions to me I had just come from a recuperation furlough and heard it from Hitler and I did not know any of the conditions at that time.

Q. But that is no answer to my question.

A. I would have to give you an imaginary number, since no reports of those matters were sent to the army corps at that time from the lower organizations.

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Q I want to concern myself with something else. We found out you knew that the matter was very serious. A number of high officers wanted to quit. I ask you, therefore, the following: How many officers or leaders or how many high or party members did you have arrested and how many did you have shot because they wanted to quit?

A I did not have officers or party members shot.

Q Did it happen during the time when you were Commander in Chief?

A This answer is for this time.

Q When the surrender discussions in Italy started what did you have done with Votinghoff and the others?

A I relieved Votinghoff and Wolf of their posts. I would like to have permission to explain this in a few sentences.

Q I want to ask you first did you have these people arrested?

A I did not have them arrested. I removed both Votinghoff and Wolf of their posts but Votinghoff had the new commander in chief whom I sent down arrested.

Q Did you know that the SS leader Wolf did carry out surrender discussions? Were you for or against that?

A I do want to say that I agreed with this action and that I lead it since the fall of 1944 as Commander in Chief, and I want to say I am very sorry that it could not be continued since no other Commander in Chief was able to carry it out.

Q You stated yesterday that you had made a soldier's oath which you obeyed, is that correct?

A Yes.

Q How many did you make during your military career?

A At the time of the Kaiser, to the Kaiser, to the Republic and to Adolph Hitler.

Q You swore to the Republic that you would keep loyal to the country?

A Yes.

Q Did you know that the Versailles treaty was a German national law?

A Yes.

Q You broke this German law even though you were bound by oath?

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A I have stated already that the Government did approve of that, and that I as a Major and a Lieutenant Colonel definitely did not have a leading position. I also want to point out the matter brought out by me yesterday concerning the conflict between obedience and your own thoughts.

Q You know that many of the re-armament matters were kept a secret of the government?

A As I have stated already yesterday these things were done with approval by the Government. They were done through Colonel General von Secht, who passed them on to Dr. Gessler, at that time Reich Defense Minister, who then passed them on to the Government and there was, as I want to point out, a special committee of the government which was ordered to supervise this. May I point out again that the Government considered these points of over-stepping the Versailles treaty as correct and necessary, due to the fact that other agreements were not carried out by the enemy nations.

Q You know as well that these matters were kept secret so that they would not be discussed in the parliament?

A Yes, I did. I also admitted yesterday that the Versailles treaty was over-stepped in certain points but I do not think I can be made responsible for something that the government did.

Q I asked you whether you saw something higher in this, something patriotic, something that was more important than the written matter, yes or no?

A I should have to say yes and no.

Q Is there such a thing greater than the oath, is there such a thing as a conscience?

A Mr. Prosecutor, can you tell me whether four thousand officers of the Reichswehr can be made responsible for something which was ordered and approved by the government, and I have to point out the law basis for this.

Q I am not interested in that. I want to say the following: I would not make you responsible for anything. I only want to know certain things from you as a witness.

A I want to say that I should have liked it better if these matters would have been carried out differently and the Allies then could have cleared up this matter.

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Q I asked you the following question and I wish you would answer me: Is there something greater than the oath, something greater than an order?

A No.

Q That is also the case in criminal orders, that is from higher officers?

A At least very much to my dislike.

Q But you did obey?

A I would like to give a practical example. I want to say that if such a thing had been ordered to me I probably would not have carried it out, and if I could not have brought my point of view to the higher leadership then I would have taken the consequences of being shot myself because I cannot carry this conflict between the order and my conscience. I cannot make the higher leadership that has issued such an order assume the entire responsibility for it.

Q Did you read the letters of Schlieffen and Moltke?

A Yes.

Q Do you know of the order or letter of Frederick Wilhelm the first, which says an officer is not required to be obedient if the order is against his honor?

A I know that slogan and I as well as most other officers attempted to find some way of escaping this conflict of the conscience.

Q But you stilled your conscience enough to fulfill the completely unnecessary job of Commander in Chief West?

A I opposed this High Command, Mr. Prosecutor, as did Keitel and Jodl, but they thought it would be possible for me as a person to change some matters which had become increasingly evidence at that time.

Q And you know that in issuing these orders that thousands of Allied and German soldiers had to die needlessly?

A I do know that but I cannot accept your word of "needlessly dying". Please explain it a little closer.

Q But they died, that is a fact?

A Mr. Prosecutor, if you say that that way I want to tell you I was the man who had arranged the surrender of the Italian forces and also one of the men who prepared the surrender of the entire German forces. Please read

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the telegram or message by radio which I sent to Eisenhower.

Q. What date was that ?

A. It was at the end of April or the beginning of May.

Q. When were you made Commander in Chief ?

A. In the middle of March.

Q. In other words, one and a half months thereafter. Do you know how many people died in that time ?

A. I don't want to know.

Q. Now we are coming to something else. When did you realize that Hitler would make war if his demands were not carried out ?

A. I cannot answer this question any closer than I answered it yesterday, that even up to the night of the 1st of September 1939 I hoped my forces would be recalled.

Q. Do you know about the matter of Hacha, the Czech matter of which we spoke yesterday, which was purely an extortionary matter ?

A. I can assure you I did not know this at the time when it happened and could not have known it.

Q. When did you hear it was an extortion by the Fuehrer ?

A. The matter was discussed after it happened but it was never discussed in the manner in which you describe it now, that it was an extortion, since we considered it a political maneuver which was welcomed by us, and removed the danger and removed the point in question successfully.

Q. Were you ever in Juedenberg, I mean were you in Juedenberg in May of 1938 when Hitler told the Generals what did happen in Czecho Slovakia ?

A. No.

Q. Other army corps leaders did not tell you concerning this ?

A. No, Mr. Prosecutor, I can almost say that the secretiveness of this matter was almost as great as that of the preparation for war. One didn't hear anything.

Q. For instance, you did not know what happened in Spain in 1936 and 1937 ?

A. Yes, I know what happened.

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Q. Where did you learn that from.

A. The Reich Minister informed us of that and we also had to carry out certain measures in connection with it.

Q. When did you hear of this Spanish matter ?

A. Shortly after it's beginning.

Q. Did Goering explain it to you ?

A. Goering ordered it.

Q. What did he order ?

A. He ordered that planes be transferred to Spain and that men should be released from the armed forces so that they could later on volunteer to go to Spain.

Q. Was there any conferences concerning this matter, conferences in which other generals participated ?

A. I think that only generals of the air force participated and I think at one time that General Warlimois who was then in Spain participated.

Q. Who were the air force corps officers who participated in this ?

A. There was a Field Marshal Milch, General Vimmer and myself.

Q. Did Stumpf ?

A. Yes, he was chief of the personnel

Q. Did Christansen ?

A. No, I don't think so because he did not have anything to do with the matter.

Q. Udet ?

A. I don't think so, because Udet at that time was not an important person in the ministry.

Q. General Witzleben ?

A. That is possible, I want to leave that open since he was in charge of the foreign units in the ministry.

Q. What did Goering tell you at that time concerning the political situation ?

A. Goering talked to us very shortly and he told us it was necessary. Further statements were made by General Milch at that time. In addition to that,

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some members came from Spain whom I don't remember.

Q. ut if you remember correctly Goering did not speak just concerning Spain but also concerning England and other matters ?

A. In this matter I only heard something concerning Spain. I cannot remember anything else but Spain. It is, however, possible that the matter was talked about our helping Spain and France and England and other matters, and I don't want to deny or answer in the affirmative .

Q. Goering spoke of the mastery and of the complete armed readiness of the air force ?

A. He did constantly. I want to say that during that time we heard Goering about once a week and he would thank us for our action and what we had done and then told us, gentlemen, you will have to do better next time.

Q. And that was nothing special whatsoever and it wasn't the first time ?

A. In other words, I want t say it was one of the regular warnings or suggestions for more work.

Q. When did this start, that the air corps had to be built up so fast ?

A. That co ld have been already in the year 1935 and 1936. I want to say that this was just a regulat matter of fact, it was a well known policy of Germany to create a security for Germany and he had expressed very often he wanted a very large air fleet for this.

Q. Only for security reasons ?

A. Yes, I can state that quite clearly here.

Q. He never made any statement concerning aggressive intentions ?

A. No, and I want to say in my opinion that it was the opinion also of my colleagues that we considered Goering as a person who did not want war in any sense.

Q. If you can see what you want in a political way but have a strong army to back you up it is much better, isn't that so ?

A. That is a political method used for hundreds of years.

Q. That was used before Hittler in about the same manner ?

A. Yes.

Q. Is that the method which is used in Germany if you don't want to use force ?

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A. Mr. Prosecutor we did not consider that necessary at times since we thought that time had come when Politicla discussions were sufficient to ease the hard boundaries put upon Germany by the Versailles treaty.

Q. I don't understand what Prague had to do with the Versailles treaty. Was that formerly German ?

A. That was about in the 15th or 16th century.

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Q And that is why it was good when it becomes German again?

A Mr. Prosecutor, I think I can answer this question best by saying that the great leaders of many countries agreed upon this matter in Munich and that my own personal opinion is of no value in this case.

Q General Field Marshal, I have to opinion that you know quite well the information concerning German policy.

A We studied history for forty years.

Q All Generals studied history?

A Yes, the history of the war.

Q I mean the opinion that air corps generals --

A May I say something? Mr. Prosecutor, if there had been a military party in Germany we would have taken the responsibility, but in this case when there was a political regime, and a dictatorship, then we were just the figures in their use.

Q Are you musical?

A I like to listen to music without being musical.

Q Do you like to go to concerts? When one plays the violin and the other one plays the piano, is that correct and is it true?

A Yes.

Q That is the same case in a state. There is a political leader that directs the people and the various instruments play together so as to form a good musical organization in order to bring it forward, and that is the same case wiht the state isn't it?

A Everybody has his role in it's own little place without a doubt.

Q Otherwise, the whole matter would not function?

I have one further question concerning this and I would like to go into the Italian case.

A But if you want to use this example, Mr. Prosecutor, I want to point out for instance the man playing the cello does not suddenly take the baton and direct the entire orchestra, and if everybody wants to beocme a director, Mr. Prosecutor, then I would like to see a concert.

Q I agree with you. You answered before to the question of defense counsel that you attempted to keep all measures and their relations to the happenings: for

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instance just as to the hostages?

A Yes, I want to repeat that I attempted to find out the truth, the exact circumstances in all cases in order that an exact judgment could be made.

Q Am I correct when I say that you are taking responsibilty for everything that happened within your command zone?

A I would have to take the responsibilty unless there were a criminal action against my order,

Q Do you know that in the valley of Stia Via 137 civilians were murdered?

A I did not remember, and due to the very heavy pressure upon me as Commander in Chief and in view of the fact that I visited the units constantly I do not remember individual cases, even if I heard of it. I had asked that a map be given to me in order to re-construct this entire matter but it was not done.

Q You know that this was done because one soldier was killed?

A No, I want to point out it says in the document that one or two soldiers were killed and that reprisals far over the usual proportion was carried out.

Q As a measure to frighten the population?

A If I attempt to reconstruct these things today one year after the matter has happened, then a good many things don't seem possible to me any more either. I considered the atmosphere of those things, and considering the fact of how many people were killed, I cannot even give the number of how many German soldiers were killed, starting with General Krisoly, and all the way down to my private surgwon who was killed in combat against partisans. I want to say that in this matter, concerning this matter, when it got so bad, when the soldiers saw nothing but blood in their eyes, then nobody can tell me or say to me that I did not a attempt to prevent in all possible ways any such occurrence, and in that way we saved several hundred thousands of Italians.

Q In other words, you admit here that terrible things had happened which were due to other factors and other reasons?

A Mr. Prosecutor, I stated that I was against it, and I am sorry for every one of these occurrences, and that I used every measure available to bring about a lawful combat according to international rights according to these partisans because I know it was impossible to prevent cruelties and mistreatments on either side.

Q In other words, they were matters which were against international law

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of which you approved through military necessity?

A I have to oppose that statement both lawfully and as humane, but it is enough if you just oppose this statement. Shall I continue?

Q No.

A Mr. Prosecutor, let's just say if you could have known and understood the terrible pressure that we poor Commanders in Chief were undergoing, I just wish you gentlemen would be in my position for six years in order to see the pressure on the conscience and the soul of every Commander in Chief during these years.

Q And under that terrible pressure things like that could happen. In other words, here is my question:

It was certain that some things like that had to happen?

A It is certain but it is a very deplorable matter.

DR. KEMPNER: Mr. Commissioner, at this time it might be helpful if we would recess as I have nothing much after lunch.

(The Commission adjourned until 1400 hours)

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(THE COMMISSION CONVENED AT 1400 HOURS).

CROSS EXAMINATION - CONTINUED.

COMMISSIONER GEORGE TAYLOR : Please remind the witness that he is still under oath.

THE WITNESS : Yes.

DR. KEMPNER :

Q What was the code name Weser?

A I know so many code names, will you please tell me a little more details about it.

Q Do you know the code name - Festung?

A I believe I have heard it, but I cannot define it at this moment.

Q What was the code name for the attack on Norway?

A I was not connected with it and as I stated yesterday, I only heard it through the radio.

Q I have a note from the day book of Jodl, in which a notation is made stating that you participated in a conference on March 5, 1940.

A That possibly was the French campaign in Holland.

Q No it is not, I will be glad to read it to you. It says : "The conference of the commanding chiefs concerning the Weser action, the Field Marshalls once again became quite excited because he was not asked."

A It is Goering speaking in this case?

Q Yes. "More forces to Narvik".

A I was not there, it must be a mistake.

Q "Bases in Copenhagen are to be procured immediately

A It is not known to me.

Q "Immediately afterwards reports were made by the following people: General Kesselring, Student, Richthofen, Witzig and Koch."

A I know of this, but it does not concern Norway, but

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this does concern the air undertaking in Rotterdam. The two things must have been confused.

Q Did you participate in the conference that dealt with Norway?

A As far as I know the Norwegan action was the most successful action insofar as secrecy was concerned. These must refer to two different conferences, probably immediately afterward

Q Was it possible to take the civilian population along in Italy on the retreat?

A I tried to have the population remain at their places, therefore, I opposed the evacuation of Rome with all my might. Where ever battle action took place, I asked or ordered the army and police and Il Duce in turn ordered the population evacuated in order to avoid losses, considering the military occupation of the roads and air raids, it was impossible to have any of the population removed.

Q Why did you order that the civilian population was to be taken out or collected up to thirty kilometers up to the front?

A You just said now I was supposed to have ordered that the territory up to thirty kilometers was to be evacuated of civilians, I only ordered that the battle areas proper be evacuated in order to avoid losses. As far as I remember the order it was reduced to ten kilometers and later on, especially in the costal areas and on the coast itself, it was not carried out at all.

Q Do you know that these people were sent to Germany used in some sort of labor work?

A I mentioned a case this morning whereupon an agreement with the Italian Government was made where bandits were to be taken and placed in collection camps and from there taken to Germa and sent to labor battalions. Apart from this, I know of no other cases.

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Q What explanation can you give for the fact that you as a German General made yourself a police custodian for Mussolini, who for a long time had been deposed?

A I can say the following. In my opinion the fact that bandits were being taken to Germany represented a measure that had legal phases and secondly, the fact that Mussolini's Government had been established and ruled in Northern Italy was a bonding fact to me.

Q Why did the so-called Fuehrer consent that the members of the Italian Royal Family be not arrested?

A I don't know. I can only say that I was absolutely opposed to the Fuehrer concerning the entire Italian question. I had absolute faith, but the Fuehrer did not.

Q Why did you continue bombing the summer of 1940 and then the bombing stopped?

Q There were two reasons. First of all we were too weak to carry on the battle for England by the air force for an extended time and furthermore the command in chief of the air force, and the commander in chief of the army ordered that the troops be withdrawn to the east.

Q What political reasons were behind this?

A The political reasons were made perfectly clear to me at a meeting in Obersalzburg concerning a war with Russia.

Q England was to be spared in order to attack Russia? Is that correct?

A I don't understand politics and I can only draw your attention to the opinion of the Reichsmarschall who wanted to keep on bombing England and I will say that it was also my wish.

Q What was your personal opinion about this? A, I correct when I say that England was to be spared in order to prepar

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for the Russian war?

A No, that is an opinion that I heard here today for the very first time. The air battle in England was supposed to be in preparation for the invasion of England for which I strove ad one cannot have too many opponents who cannot be beaten from a military standpoint.

Q The so-called Fuehrer was against the invasion of England, is that correct?

A Yes. In any case neither Brauchitsch nor the Reichs Minister succeeded in convincing him. The minister of the navy had a different opinion.

Q If Hitler had not interferred, you and Brauchitsch and the others would have been allowed to do as you please, then the whole venture might have been more successful? Answer "yes" or "no".

A Yes, I can imagine if the restrictions had been lifted it would have meant success.

Q You mean if the authorities who were competent an not Hitler, it would have been better?

A In that respect, I have to concede that you are right.

Q Now a different complex. This is the last group. What connection did you have with the Security Office, the SD and SS?

A I had no connection whatever with the SD and SS and the organization known as the Einsatzguppen. As far as Italy is concerned, I can say that a certain Obersturmfuehrer, I cannot recall his name but I will recall it, carried out the tasks of reconnaissance in these areas.

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Q To help you in bringing out order and security, is that right?

A Yes, I might add here together with the Italian police plus the police force of my army groups.

Q This was a team that worked together, was it not?

A You are wrong in one way and correct in another. Correct insofar as all three groups received a general task and you are incorrect insofar as the different sections received their orders for the different groups.

Q That would be one play with distribution of parts' One thing was done by the Italian Police, the second by the field police and the third by the SD is that correct?

A I would like to clarify the matter as far as partisan reconnaissance was concerned.

Q These partisan affairs went over the whole of Italy, is that correct?

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A At the beginning, no, but at the turn of 1944 and in 1945 they spread to the whole of Italy.

Q Who was the man in uniform who always accompanied you on your tour of inspections, he was in a black uniform?

A Whenever I took a plane trip Obersturmbannfuehrer Stakingeneror Daumle and now and then a staff sergeant by the name of Nisst accompanied me.

Q I mean the SS man who accompanied you.

A I must answer with an absolute "no", as I had no SS man in my immediate group or on my staff, but there was a Standart-enfuhre Dollmann, who helped me and gave me very good service in the Catholic movement in Italy and helped me oppress many unfair activities.

Q Do you mean by "dirty work" the murder of Italian citizens?

A Of course as you hear the word, you refer it to partisans. I must say it here that there was much more dirty work going on by the other isde against the troops and certainly I did not want to be the one that set the pace for such dirty and obscene warfare.

Q Obersturmbannfuehrer Daumle also visited Tunis with you, did he not?

A No.

Q But the officers told us you were very often in company with a Obersturmbannfuehrer.

A I have to say that is not right. I was in Tunis say every eight or ten days a month and perhaps fourteen days. I do not remember taking a Sturmbannfuehrer along. I had no reason to do so and moreover the flight across was not a pleasure trip and I did not take people along with me.

Q Was there a Haupfsturmfuehrer?

A No, you may be sure, Mr. Prosecutor, I would be glad to admit it if I had done so, but those people were not needed there.

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Q Now, my last question. I now return to the question concerning command or order. When did you learn for the first time that the National-Socialistic groups were carrying out criminal acts?

A I heard for the first time the criminal acts concerning the east for the first time in Nolindorf.

Q Where were you in November of 1938.

A I was chief of Air Flotilla 1 in Berlin.

Q Do you know that the people broke the windows of Jewish establishments and arrests were taking place at that time ?

A That has already been said to me by the court and I have admitted it, but I would like toadd to this question. I really do not like to speak about these things as it means placin myself and my whole caste in a precarious position. Moreover, I believed public opinion and what I heard publically was a mistake, but I am not that stupid today any more.

Q Do you mean by caste the group of Generals?

A Yes, those who held positions similar to mine.

Q Do you know any Generals that opposed this?

A I have to contradict the first sentence if I say "yes" now. I cannot say yes.

Q Do you know of any Generals who asked for their resignation and approval was given?

A Because of this action?

Q No, because of the general affair.

A I know of one general, who was a good friend of mine, General Hossbach and there was General Beck, general chief of the army.

Q General Von Leib?

A I cannot call Von Leib's retirement a retirement of this kind, as his retirement was an order to make room.

Q It was possible to come out if one wanted? A man's pride became his throne, is that it?

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A As far as during peacetime, I would say "yes" and there were other cases. In time of war retirement was only possible if the Fuehrer agreed with the application of the person who wanted to retire. I do not believe there is one leader within the German Wehrmacht who did not at one time or another hand in his resignation.

Q A lot of courage was required to tell these people to do their own dirty work. Is that correct?

A No, the responsibility that weighed on one was still greater. You may be assured, Mr. Prosecutor, that the years we went through meant a burden which I would not wish to heap on anyone.

Q Is it correct that you don't want anything to do a second time with the terrible crime that the so-called Fuehrer and other people have on their conscience?

A I consider the crimes that were committed un-German and I do not approve of them.

Q Thank you, that is all.

COMMISSIONER TAYLOR: Dr. Laternser, do you have any additional questions?

DR. LATERNSER: Yes, a few questions.

RE-DIRECT EXAMINATION

BY DR. LATERNSER:

Q Was the Fuehrer of the SD Obersturmbannfuehrer Kapple?

A Yes.

Q Where did he have his official quarters in Italy?

A In Rome. He was at the same time an attache with the Embassy.

Q Under whose jurisdiction was he or to whom was he subordinate?

A To Gruppenfuehrer Hoster and to Himmler and in his capacity as attache, to Ambassador v. Mackensen.

Q Was he at any time under your jurisdiction in the Italian theatre of war or did you have any relationship to him.

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A No relationship whatsoever.

Q Even not economically?

A Nor economically. Conditions in Italy may have been different than they were in the other theatres of war.

Q No, we are speaking of Italy right now. The work that went on between you, if I understand you correct, he reported to you where armed partisan groups were.

A Yes, that was one of his work tasks and secondly he arrested on his own initiative leaders of the movement when the time for such arrests was right.

Q Could you give him any orders?

A No, I could not, but I could ask him to carry out some reconnaisance work.

Q And your wish for him to do so, was, of course, the fact that he worked in this connection?

A Yes, of course.

Q And he was independent in his own work?

A Yes, completely.

Q One final question. You mentioned two people who accompanied you frequently on trips. To what party did they belong?

A They were both aviators.

Q One question concerning the deportation of partisan groups to Germany. Did the fact play a part, as far as you as commander in chief was concerned, that you considered the deportation a milder form of punishment than capitol punishment?

A I am glad you expressed more clearly what I wanted to express more clearly previously.

Q You also testified that you were taking the responsibility concerning everything that happened in the Italian theatr. of war when Dr. Kempner asked you about this. Do you wish to, or can you assume responsibility in cases where action was taken against your expressed orders?

A I already said this morning, I assume full responsi-

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bility, with the exception of crimes that were committed and acts that were illegal. I might, of course, indict myself as I said I had suffered those crimes to be carried out, but I did not even allow that they be suffered by myself.

Q You said this morning that one reason why the things happened in the Italian theatre of war, as you have been reproached with here, was that you, yourself, was so taken up with working that a very heavy pressure lay on you insofar as work was concerned. You said that it was a matter of fact that such crimes happened and they were regrettable. Do you mean to say here that such crimes were avoidable?

A In answer to your last part of your sentence, I want to say here that I tried with all my might to oppose this anti-partisan warfare as I knew on both sides terrible and unavoidable crimes would occur.

Q You believe then that you yourself had done everything in the Italian theatre to avoid the committing of crimes?

A I may perhaps let other people speak for me. If General Alexander says for example that the warfare we carried out was chivalrous and proper warfare, if the press also says the same thing and if people testify and say that I was known to have a strange temperment and did everything possible to conduct a lawful warfare and to keep order, then they know I have done everything within my power.

Q No more questions.

COMMISSIONER TAYLOR: The witness is excused and we will have a recess for five minutes.

(The commission recessed at 1455 hours.)

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The foregoing is a true and correct transcript of the testimony of Field Marshall KESSELRING taken on 3 July 1946.

P. Ahuna
Reporter

Cook
Reporter

A. Meehan
Reporter

CERTIFIED TO:

Geo. R. Taylor
Commissioner